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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/550,600

09/23/2005

Norbert Erhardt

66489-071-7

1969

25269

7590

01/13/2009

DYKEMA GOSSETT PLLC  
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EXAMINER

HO, ALLEN C

ART UNIT

PAPER NUMBER

2882

MAIL DATE

DELIVERY MODE

01/13/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/550,600	<b>Applicant(s)</b> ERHARDT ET AL.	
	<b>Examiner</b> Allen C. Ho	<b>Art Unit</b> 2882	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 28,29,31,33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28,29,31,33 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: **53**.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the means for the creation of 3D images of a subvolume of a mandibular arch of the patient, which means create several 2D images from different directions as claimed in claims 28 and 29 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the connecting means for the attachment of the camera to a support of the camera as claimed in claim 34 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

Art Unit: 2882

renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The disclosure is objected to because of the following informalities:

- (1) Page 11, line 19, --55-- should be inserted after "camera".
- (2) Page 13, line 10, "2" should be replaced by --55--.
- (3) Page 13, line 11, "2" should be replaced by --55--.
- (4) Page 13, line 12, "2" should be replaced by --55--.
- (5) Page 13, line 13, "2" should be replaced by --55--.
- (6) Page 13, line 14, "2" should be replaced by --55--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 28 and 29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described

Art Unit: 2882

in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 28 and 29 recite "means for the creation of 3D images of a subvolume of a mandibular arch of the patient, which means create several 2D images from different directions and compute a 3D image therefrom using cone beam technology with associated construction algorithms." First of all, the specification does not describe means for creating several 2D image from different directions. It is unknown how the camera is used to create several 2D images from different direction. Secondly, the specification does not describe a means for computing a 3D image using cone beam technology with associated reconstruction algorithm.

Claim 29 recite "said camera is moved out of the optical path between said x-ray emitter and said image detector of said installation." The description does not describe any mechanism for moving the camera out of the optical path between the x-ray emitter and the image detector of the installation.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 28, 29, 31, 33, and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 28 and 29 recite "adjustment means for adjusting said camera and/or said second image detector and/or said x-ray emitter and/or a primary diaphragm and/or combinations thereof". This limitation is indefinite since it is unclear what combination is referred to. The examiner suggests replacing it with Markush language. Clarification is requested.

Art Unit: 2882

Claims 28 and 29 recite "a primary diaphragm" in a passive manner. This limitation is indefinite. It is unclear whether or not the x-ray system actually comprises a primary diaphragm.

Claims 28 and 29 recite the limitation "the optical path". There is insufficient antecedent basis for this limitation in the claim. Furthermore, this is confusing because x-rays are not optical rays.

Claim 29 recites "when the x-ray emitter is aligned for the creation of a teleradiographic image, said camera is move out of the optical path between said x-ray emitter and said image detector of said installation for the creation of teleradiographic images." This limitation is indefinite. First of all, the recitation does not identify with which structural element is the x-ray emitter aligned for the creation of teleradiographic images. Furthermore, the limitation does not identify a mechanism for moving the camera. It is unknown how the camera is moved out of the optical path.

Claim 31 recites "a common casing" in a passive manner. This limitation is indefinite. It is unclear whether or not the x-ray sensitive camera actually comprises a common casing.

Claim 34 recites "in a region of connecting means for the attachment of said camera to a support". This limitation is indefinite. It is unclear what is meant by "in a region of connecting means." Furthermore, it is unclear whether the x-ray sensitive camera actually comprises the connecting means and the support since they are recited in a passive manner.

Art Unit: 2882

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen C. Ho whose telephone number is (571) 272-2491. The examiner can normally be reached on Monday - Friday from 9:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J. Glick can be reached on (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Allen C. Ho/  
Primary Examiner  
Art Unit 2882

09 January 2009